IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 4.7.2007

CORAM:

THE HONOURABLE MR.JUSTICE M.JAICHANDREN

Second Appeal No.1330 of 2002

S.Alamelu .. Appellant/Respondent/Plaintiff

Vs.

1. Srinivasan
2. Rajendran : Respondents/Appellants/Respondents

Prayer: The second appeal u/s 100 CPC has been filed against the judgment and decree made in A.S.No.9 of 2001, on the file of the Subordinate Judge, Tiruvarur, dated 30.4.2002, reversing the judgment and decree made in O.S.No.94 of 2000, dated 22.12.2000, on the file of the District Munsif, Nannilam.

For Appellant : Mr.A.Muthukumar
For respondents : Mr.B.Ramamurthy

JUDGMENT

The second appeal has been filed against the judgment and decree, dated 30.4.2002, made in A.S.No.9 of 2001, on the file of the Subordinate Court, Tiruvarur, reversing the judgment and decree, dated 22.12.2000, made in O.S.No.94 of 2000, on the file of the District Munsif, Nannilam.

2. The plaintiff, who is the appellant in the present second appeal, had filed the suit in O.S.No.94 of 2000, on the file of the District Munsif, Nannilam, praying for the relief of permanent injunction and for costs. The plaintiff had filed the said suit stating that the suit property belongs to her and that she is in possession and enjoyment of the suit property. The plaintiff had filed the said suit, since the defendants were attempting to take possession of the suit property from the plaintiff.

3. On the contrary, the defendants had claimed that the suit property did not belong to the plaintiff as it could not have been purchased from her own funds since she was not having any source of income. The first defendant had purchased the suit property with his own funds and he is cultivating in the said property. As the averments made by the plaintiff are not true and that since the

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plaintiff is not in possession of the suit property, the suit is liable to be dismissed.

3. The trial Court, by its judgment and decree, dated 22.12.2000, had decreed the suit. In the appeal preferred by the defendants, the lower appellate Court, by its judgment and decree, dated 30.4.2002, made in A.S.No.9 of 2001, had reversed the judgment and decree of the trial Court, dated 22.12.2000. Hence, the plaintiff, in O.S.No.94 of 2000, had preferred the present second appeal before this Court.

4. At the stage of the hearing of the second appeal, a memo of compromise, dated 26.1.2004, signed both by the parties and the counsels appearing on their behalf, has been filed before this Court requesting that the second appeal be allowed and a decree be passed in the second appeal in terms of the said memo of compromise.

7. The memo of compromise, dated 26.1.2004, reads as follows:-

"MEMO OF COMPROMISE FILED BY THE PARTIES

At the advice of the elders the parties have settled all their disputes and pray decree may be passed in the above second appeal in the following terms.

1. The respondents have no right, title or interest in the suit property forming subject matter in O.S.No.94 of 2000 on the file of the Court of District Munsif, Nannilam.

2. The respondents admit that the appellant is in possession of the property stated supra.

3. The respondents have no objection for allowing the above second appeal and restoring the judgment and decree of the trial Court made in O.S.No.94 of 2000 without costs."

8. Recording the above memo of compromise, dated 26.1.2004, the Second Appeal is allowed on the above terms. The above said memo of compromise shall form part of the decree. No costs.

Sd/-
Asst. Registrar.

/true copy/

Sub Asst. Registrar.

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To

1.The Subordinate Judge, Thiruvarur.

2.The District Munsif, Nannilam.

3.The Section Officer, V.R.Section, High Court, Madras.

One cc to Mr.A.Muthukumar, advocate SR.No.39886

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